

# HOUSE BILL REPORT

## ESB 6263

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**As Reported by House Committee On:**  
Health Care & Wellness

**Title:** An act relating to the establishment of the Washington vaccine association.

**Brief Description:** Establishing the Washington vaccine association.

**Sponsors:** Senator Keiser.

**Brief History:**

**Committee Activity:**

Health Care & Wellness: 2/18/10, 2/23/10 [DPA].

**Brief Summary of Engrossed Bill**  
**(As Amended by House)**

- Establishes a nonprofit corporation to facilitate universal purchase of vaccines for children and assess health carriers and third-party administrators for the cost of vaccines for certain children under the age of 19 years.
- Directs the Department of Licensing to register all third-party administrators for a health insurer or health care purchaser by September 1, 2010, and renew their registration annually.
- Authorizes the Washington Vaccine Association Board (Board) to recommend termination of the association on or after June 30, 2015. If the Legislature has not acted to reject the Board's recommendation by the last day of the next regular legislative session, the Board may vote to permanently dissolve the association.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** Do pass as amended. Signed by 13 members: Representatives Cody, Chair; Driscoll, Vice Chair; Ericksen, Ranking Minority Member; Bailey, Campbell, Clibborn, Green, Herrera, Hinkle, Kelley, Moeller, Morrell and Pedersen.

**Staff:** Dave Knutson (786-7146).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Background:**

Washington purchases vaccines for all children regardless of their health insurance coverage and participates in the free distribution system provided by the federal government for federally—and state-funded vaccines. This universal purchase program has provided access to the federal Centers for Disease Control and Prevention (CDC) contract pricing of the vaccines, and a single order distribution system delivers vaccines to all health care providers in the state.

The 2009-2011 biennial operating budget provided state funding for the universal purchase vaccine system until May 2010. When state funding ends, the federal Vaccines for Children (VFC) program will continue to purchase vaccines for Medicaid, Native American/Alaskan, uninsured, and underinsured children. State purchasing of vaccines for non-VFC children will end, impacting children covered by individual insurance policies, employer-based coverage, and Taft-Hartley plans by shifting expenses for the vaccine purchase to these other plans and ending access to the CDC contract pricing. Elimination of the universal purchase system will also end the single order distribution system for providers, and require providers to establish a separate and parallel system for purchase, storage, and administration of vaccines for non-VFC children. This may result in increased expense and workload for health care providers as they will have to account for vaccines differently, depending on whether the entity paying for the vaccine is a public or private party.

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**Summary of Amended Bill:**

The Washington Vaccine Association (Association) is formed as a nonprofit corporation to facilitate universal purchase of vaccines for children, and assess health carriers and third-party administrators for the cost of vaccines for certain children under the age of 19.

The Association's Board of Directors (Board) includes representatives from the licensed health carriers or third-party administrators with the most covered lives in Washington; a health maintenance organization with the most covered lives in Washington; other third-party administrators representing Taft-Hartley health benefit plans and self-funded health care purchasers; other carriers; health care providers, including one board certified pediatrician; and the Secretary of the Department of Health (Secretary, DOH) as a non-voting member.

The DOH must calculate the total nonfederal program cost for the upcoming calendar year by October of each year, as well as the anticipated nonfederal program cost for May through December 2010 by April 1, 2010. The Board must establish the estimate for the initial assessment period for May 1, 2010, through December 31, 2010, and notify participants by May 15, 2010. Beginning November 1, 2010, and annually thereafter, the Board must establish the method and timing of assessment collection, and develop the formula for the assessment. The Board must develop a mechanism to verify the number and cost of vaccine doses purchased and administered to children that are the responsibility of each participant.

Participants may prepay the assessment for the initial deposit into the Universal Vaccine Purchase Account (Account) established in the state treasury. In order to generate start-up

funding, the initial deposit must be made before April 30, 2010. Only the Secretary or the Secretary's designee may authorize expenditures from the Account.

The Board must establish a committee to develop recommendations to the Board on vaccines to be purchased for the upcoming year. The committee is comprised of at least five voting members, including three carrier or third party administrator representatives, one physician, the Secretary or the Secretary's designee, and one non-voting member representing the vaccine manufacturers. The representative of the vaccine manufacturers is chosen by the Secretary from a list of three nominees submitted collectively by vaccine manufacturers. In selecting vaccines, the committee should consider patient safety and clinical efficacy, public health and purchaser value, patient and provider choice, and stability of vaccine supply.

The Association may audit compliance by any health carrier or third-party administrator. The DOH must assess a civil penalty against any carrier or third-party administrator failing to pay the assessment within three months of notification. The penalty is 150 percent of the delinquent assessment. The DOH and the Association may file liens or seek recovery of costs.

All entities that act as third-party administrators for a health insurer or health care purchaser must register with the Department of Licensing (DOL) by September 1, 2010, and renew their registration annually. Any third-party administrator that fails to register is subject to a civil penalty of between \$1,000 and \$10,000.

The Board members are provided immunity from liability for any lawful action provided in the course of their duties. The Board may vote to recommend termination of the Association on or after June 30, 2015, if the Association finds the original intent to ensure more cost-effective purchase and distribution of vaccine than if provided through uncoordinated purchase by health care providers has not been achieved. The recommendation must be provided to the Legislature within 30 days of the vote, and if the Legislature has not acted to reject the Board's recommendation by the last day of the next regular legislative session, the Board may vote to permanently dissolve the Association.

Physicians and clinics ordering state supplied vaccine must ensure they have billing mechanisms in place enabling the Association to accurately track vaccine delivered to each covered life and must submit documentation requested by the Board. Physicians and others providing childhood immunizations are strongly encouraged to use state supplied vaccine whenever possible. Health insurance carriers and third-party administrators may deny claims for vaccine serum costs when serum or serums providing similar protection are available through state supplied vaccine.

If any portion of this program is invalidated by a court, the Board may terminate the program 120 days following a final judicial determination. The assessments paid by carriers may be considered medical expenses for rate setting purposes, and the assessments received by the Association are not subject to the business and occupation tax established under RCW 82.04. Real and personal property owned by the Association is exempt from property taxation.

#### **Amended Bill Compared to Engrossed Bill:**

The prohibition against purchasing vaccines manufactured with added mercury is deleted. The Association is provided an exemption from property tax for its real and personal property. The role and responsibility of third party administrators related to the Association is further clarified.

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**Appropriation:** None.

**Fiscal Note:** Requested February 15, 2010.

**Effective Date of Amended Bill:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:**

(In support) It is very important to maintain the universal purchase of vaccines to ensure that children receive appropriate vaccinations at the best possible price. Health carriers, third party administrators, physicians, and other health care professionals have worked very hard to develop a mechanism to supply vaccines to physicians through the universal purchase system the State has operated for several years. We need to improve the vaccination rates of our children and the Washington vaccine association will lay the foundation to build upon to achieve that goal.

(Opposed) Vaccines with mercury cause autism and several other childhood problems. Parents should not be forced to vaccinate their children.

**Persons Testifying:** (In support) Senator Keiser, prime sponsor; Jack McRae, Premera Blue Cross; Sydney Zvara, Association of Washington Healthcare Plans; Ross Baker, Regence Blue Shield; and Beth Harvey, Washington Chapter of the American Academy of Pediatrics, Washington Academy of Family Physicians, and Washington State Medical Association.

(Opposed) Ann Clifton, Mercury Awareness Team of Washington; and Shelby Shrauner and Ezra Eickmeyer, Voice of the Future Children's Advocacy Alliance.

**Persons Signed In To Testify But Not Testifying:** None.